IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION No: 23484 of 2004

Between:

M.L. Ravi Kumar, S/o. of Late M.N. Narsaiah,
Resident of 8-81, Temple Alwal, Secunderabad-8-81, Temple Alwal
,Secunderabad - A.P.

.... PETITIONER

AND

1 Special Tahsildar, Andhra Pradesh, State Financial

Corporation, Ramachandrapuram Branch, 22-95, Reddy

Complex, Beside LIC Office, Near Lingampally Circle,

Ramachandarauram, Hyderabad - 500 032.
2 Andhra Pradesh State Financial Corporation, rep by its

Assistant General Manager, 22-95, Reddy Complex,

Beside LIC Office, Near Lingampally Circle,

Ramachandrapuram-Hyderabad - 500 032.
3 Government of Andhra Pradesh, Represented by its

Secretary, Revenue Department, Secretariat, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring that the action of Respondents 1 and 2 in issuing the impugned Notice bearing No. Ref AFC/RCP/RRACT/ST/2004-2005 Dated 9-10-

2004 and there under seeking to recover a sum of Rs. 7,81,64,786 from the petitioner herein, is arbitrary, irrational and illegal and violative of the fundamental rights.

Counsel for the Petitioner: MR.MOHAMMED IMRAN KHAN

Counsel for the Respondent No.3: GP FOR REVENUE

Counsel for respondents 1 & 2 : Ms.Y.N.Lohita,

Advocate, (SC for A.P.S.F.C)

The Court made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the notice dated 9.10.2004 directing the petitioner to pay the dues of Rs.7,81,64,786/-, failing which the first respondent would proceed for the recovery of the said amount under the provisions of the A.P. Revenue Recovery Act and recover the same.

2. The grievance of the petitioner is that the petitioner did not receive any loan nor stood as guarantor to any other borrower, who borrowed loans from the second respondent Corporation. It is stated that the petitioner is one of the sons of late M.N.Laxminarsaih, who appears to have stood as guarantor/surety in respect of loan obtained by M/s.Suvidha Electronics Limited, Bolarum, Medak District. It is also stated that the petitioner was not in cordial terms with his late father during his life time, and, in fact, there was a partition effected with reference to the ancestral properties as early as in the year 1973. However, on the ground that the petitioner's father stood as guarantor in respect of the loan advanced by the second respondent Corporation to M/s.Suvidha Electronics Limited, the first respondent issued the impugned notice, even though the petitioner has nothing to do with the said company, which is borrower with the second respondent, or with the guarantors except the relation that he is son of late Laxminarsaiah, who stood as guarantor for the loan advanced by the Corporation to the company. Therefore, the petitioner sought for appropriate direction to the first respondent not to proceed against the petitioner either in his individual capacity or in respect of the assets owned by him.

3. This matter came up for hearing on the earlier occasion, and at the instance of the learned Standing Counsel, it was adjourned to today, and the learned counsel, on ascertaining the facts, made it clear that the petitioner was not a party either as guarantor or in any other capacity with reference to the loan advanced by the Corporation to the company.

4. In view of the above stated admitted facts, the petitioner is not a guarantor or principal borrower. Hence, he is not liable to pay any amount as sought for by the first respondent from the petitioner. The respondents, therefore, cannot proceed against the petitioner either personally or against his assets. It is further made clear that if the respondents proceed against any of the assets over which the petitioner has got any right or claim, he can raise his claim by appropriate objections, and if such objections are raised by the petitioner, the Corporation is obligated to consider the objections of the petitioner and pass appropriate orders before proceeding against such assets, where the petitioner raises objections on the ground that such asset or assets belongs to him.

5. The writ petition is accordingly disposed of. No costs.

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S.ANANDA REDDY, J

Dated: 08.6.2005.

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To

1 Special Tahsildar, Andhra Pradesh, State Financial

Corporation, Ramachandrapuram Branch, 22-95, Reddy

Complex, Beside LIC Office, Near Lingampally Circle,

Ramachandarauram, Hyderabad - 500 032.

2 Andhra Pradesh State Financial Corporation, rep by its

Assistant General Manager, 22-95, Reddy Complex,

Beside LIC Office, Near Lingampally Circle,

Ramachandarauram-Hyderabad - 500 032.

3 Secretary, Revenue Department, Government of Andhra

Pradesh Secretariat, Hyderabad.

4 2 CCs to the G.P. for Revenue, High Court buildings, Hyderabad (OUT)

5 2 CD copies